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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL LASHON MARTINEZ,

Defendant and Appellant.

B240462

(Los Angeles County
Super. Ct. No. SA023514)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Edward B. Moreton, Judge. Dismissed.

Jonathan B. Steiner, California Appellate Project Executive Director, and
Richard B. Lennon, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant Michael Lashon Martinez appeals from the trial court's denial of his writ of habeas corpus.¹ Because the trial court's order is not appealable, we will dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

In 1997, defendant was convicted of one count of attempted murder, four counts of robbery, and four counts of assault with a firearm. (Pen. Code, §§ 187, 664, 211, 245, subd. (a)(2).)² The court found he had suffered five prior serious felony convictions within the meaning of the "Three Strikes" law. (§§ 1170.12, subds. (a)-(d), 667, subds. (b)-(i).) With the acquiescence of the prosecutor, the court vacated the attempted murder conviction. In addition to the sentences for the firearm enhancements, defendant received four consecutive 25-year-to-life terms for the four robberies. We modified the sentences for the firearm enhancements and affirmed the judgment. (*People v. Martinez* (Feb. 25, 1998, B110602) [nonpub. opn.])

On February 14, 2011, defendant filed a petition for writ of habeas corpus, alleging the trial court did not understand that it had the discretion to impose concurrent sentences for the robberies. The prosecutor filed an informal response, conceding that defendant was entitled to a new sentencing hearing. However, the trial court disagreed. After hearing oral argument, the court denied the petition by written order on February 9, 2012. Defendant received a certificate of probable cause from the trial court and filed this appeal.

The denial of a petition for writ of habeas corpus is not reviewable by means of an appeal. The aggrieved party must file a new petition for writ of habeas corpus in the appellate court. (*People v. Garrett* (1998) 67 Cal.App.4th 1419, 1421-1423.)

¹ On the day defendant filed his opening brief (May 31, 2012), he also filed a petition for writ of habeas corpus seeking review of the trial court's order. (*In re Martinez on Habeas Corpus*, B241572.)

² All further statutory references are to the Penal Code.

Accordingly, we will dismiss this appeal and address defendant's claims in his petition for writ of habeas corpus filed in this court.

DISPOSITION

The appeal is dismissed.

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SUZUKAWA, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.